

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Bail Appl..No. 6977 of 2007()

CRIME NO.422/07 OF CHINGAVANAM POLICE STATION

PETITIONER/ACCUSED

A.IBRAHIMKUTTY, PRESIDENT,
A.M.M.CHARITABLE TRUST,
THIRUVANANTHAPURAM.

BY ADV. SRI.SALIM V.S.

RESPONDENTS: COMPLAINANTS

1. SUB INSPECTOR OF POLICE,
CHINGAVANAM POLICE STATION,
CHINGAVANAM, KOTTAYAM DISTRICT.
2. STATE OF KERALA, REPRESENTED BY ITS
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A. No. 6977 OF 2007

Dated this the 22nd day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Sec.420 of the IPC. The crux of the allegations is that the petitioner, who had entered into an agreement with the de facto complainant and received an amount of Rs.5 lakhs towards the advance, is refusing to abide by the terms of the agreement. This, it is alleged, is with the fraudulent intention to deceive and this amounts to the offence of cheating. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2 The learned counsel for the petitioner submits that the allegations are totally false. The allegations, even if accepted in toto, only reveal the breach of a civil liability. There was, in

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fact, a written agreement entered into between the parties and in such agreement, consequences are prescribed for breach of the obligations, if any. A perusal of the agreement which is produced as Annexure-A1 must suggest to the court that no false representation was ever made by the petitioner. The petitioner expected to receive certain articles which he, in turn, agreed to sell to the de facto complainant. In any view of the matter, no elements of criminality can be deciphered or located in the alleged conduct attributed against the petitioner.

3. The learned Public Prosecutor does not oppose the application. I am satisfied, in the facts and circumstances of this case, that the petitioner is entitled to grant of anticipatory bail. In the absence of opposition, it is not necessary for me to advert to the facts in any greater detail in this order.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 29/11/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for

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interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 30/11/07 and 1/12/07 and thereafter as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 29/11/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 29/11/07.

(R. BASANT, JUDGE)

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